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PATENT
Docket No.: 20695C-005900US

On March 23, 2005

TOWNSEND and TOWNSEND and CREW LLP

By: 
Anna C. Kandel

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Friedrich Scheiflinger *et al.*

Application No.: 09/661,992

Filed: September 14, 2000

For: **FACTOR IX/FACTOR IXA
ACTIVATING ANTIBODIES AND
ANTIBODY DERIVATIVES**

Examiner: Haddad, Maher M.
Art Unit: 1644

**APPLICATION FOR PATENT TERM
ADJUSTMENT CORRECTION**

Box Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests reconsideration of the patent term adjustment indicated in the Notice of Allowance dated December 29, 2004 received from the U.S. Patent and Trademark Office (USPTO).

The Notice of Allowance indicates a patent term adjustment of 116 days. Applicant submits that this is incorrect. Applicant believes the patent term adjustment should be 132 days. Presented below is Applicant's calculation basis for requesting a patent term adjustment of 132 days (calculated up to December 29, 2004--the date of mailing of the Notice of Allowance).

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The PAIR information for this application indicates that the USPTO has added 465 days pursuant to 37 CFR §1.703, and subtracted 349 days from the patent term adjustment period pursuant to 37 CFR §1.704. Applicant believes that the calculations are incorrect.

More specifically, pursuant to Applicant's calculations, the USPTO failed to initially act upon the application within 14 months after the filing date Under 35 USC § 154(b)(1)(A). It is Applicant's understanding that a qualifying initial action can be either a first Office Action on the merits, a written restriction or election of species requirement, or an examiner's requirement for information under 37 CFR 1.105. Therefore the date of initial action for the subject application would be August 26, 2003, the date that the restriction requirement was mailed. The days added to the patent term adjustment period should then be 650 days, which is the duration of days between November 14, 2001, or 14 months after the date of filing, and August 26, 2003, or the date that the restriction requirement was mailed.

Further, Applicant believes that 518 days should be subtracted from the patent term adjustment period, due to Applicant's filing of Requests for Extensions of Time with Office Action or Notice Responses. More specifically, Applicant was 33 days over the three month deadline when responding to the Notice to File Missing Parts. Applicant was then 394 days over the three month deadline for responding to the Notice to Comply mailed December 12, 2001. Finally, Applicant was 91 days over the three month deadline for responding to the Office Action dated January 2, 2004.

Based upon the above, Applicant submits that as of December 29, 2004, the total patent term adjustment for this application should be 132 days (650-518), which is the difference between the sum of periods calculated under 37 CFR §1.703 (650 days) and the sum of periods calculated under 37 CFR §1.704 (518 days).

The instant application is not subject to any terminal disclaimer.

Please deduct the processing fee of \$200.00, pursuant to 37 CFR §1.18(e), from Deposit Account No. 20-1430 of the undersigned, and charge any additional fees or

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credit overpayment to the above Deposit Account. This petition is submitted in duplicate.

Respectfully submitted,



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